



## COMMUNITY DEVELOPMENT DEPARTMENT

### PLANNING DIVISION

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### CITY OF NEWPORT BEACH

### ZONING ADMINISTRATOR STAFF REPORT

April 11, 2013

Agenda Item 4

**SUBJECT:** Moss Lot Merger - PA2013-038  
2600 and 2602 West Ocean Front  
Lot Merger No. LM2013-001

**APPLICANT:** Apex Land Surveying, Inc.

**PLANNER:** Jaime Murillo, Associate Planner  
(949) 644-3209 or [jmurillo@newportbeachca.gov](mailto:jmurillo@newportbeachca.gov)

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### ZONING DISTRICT/GENERAL PLAN

- **Zone:** R-1 (Single-Unit Residential)
- **General Plan:** RS-D (Single-Unit Residential Detached)

### PROJECT SUMMARY

A lot merger application and a request to waive the parcel map requirement for two properties, under common ownership, located on the Balboa Peninsula. The merger would combine two legal lots, Lots 1 and 2 of Tract 512, into a single parcel for the future development of a single-unit dwelling.

### RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Draft Zoning Administrator Resolution No. \_\_\_\_ approving Lot Merger No. LM2013-001 (Attachment No. ZA 1).



## **DISCUSSION**

- The subject lots are located on the corner of West Ocean Front and 26<sup>th</sup> Street (See Attachment No. ZA 2 – Vicinity Map). The combined lot will abut the public beach walk, 26<sup>th</sup> Street, and an alley in the rear.
- Each of the two lots is currently developed with single-unit dwellings. The existing dwellings will be demolished and the proposed merged lot would be redeveloped with one new single-unit dwelling.
- Redevelopment of the site will be required to be consistent with the Zoning Code standards, including parking and setback requirements.
- Section 20.18.030 of the Zoning Code establishes minimum lot area and width requirements. Each of the two existing lots are 1,875 square feet in area and 25 feet in width, which are less than the 6,000 square-foot minimum lot area and 60-foot minimum lot width requirements of the Zoning Code. The proposed merger of the lots would create one 3,750 square-foot, 50-foot-wide parcel that will be more consistent with the minimum lot standards of the Zoning Code.
- As demonstrated in the attached draft resolution, the proposed merger meets the requirements of Title 19 (Subdivisions).

## **ENVIRONMENTAL REVIEW**

The project qualifies for an exemption from environmental review pursuant to Section 15305 (Class 5 Minor Alterations in Land Use Limitations) of the Implementing Guidelines of the California Environmental Quality Act (CEQA), which consists of minor alterations in land use limitations in areas with an average slope of less than 20 percent, which do not result in any changes in land use or density.

## **PUBLIC NOTICE**

Notice of this application was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days prior to the decision date, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall, 3300 Newport Boulevard, Newport Beach, CA 92663 and, the agenda and staff report were available at the Newport Beach Public Library, Mariners Branch, at 1300 Irvine Avenue, Newport Beach, CA 92660.

**APPEAL PERIOD:** An appeal may be filed with the Director of Community Development or City Clerk, as applicable, within ten (10) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code. For additional information on filing an appeal, contact the Planning Division at (949) 644-3200.

Prepared by:

  
\_\_\_\_\_  
Jaime Murillo, Associate Planner

GBR/jm

Attachments:	ZA 1	Draft Resolution
	ZA 2	Vicinity Map
	ZA 3	Lot Merger Exhibits

# **Attachment No. ZA 1**

Draft Resolution



**RESOLUTION NO. ZA2013-\_\_\_\_**

**A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE  
CITY OF NEWPORT BEACH APPROVING LOT MERGER NO.  
LM2013-001 AND WAIVER OF PARCEL MAP REQUIREMENT  
FOR A LOT MERGER LOCATED AT 2600 AND 2602 WEST  
OCEAN FRONT (PA2013-038)**

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

**SECTION 1. STATEMENT OF FACTS.**

1. An application was filed by Apex Land Surveying, Inc., with respect to property located at 2600 and 2602 West Ocean Front, and legally described as the Lots 1 and 2 of Tract 512, requesting approval of a Lot Merger.
2. The applicant proposes a lot merger and requests to waive the parcel map requirement for two properties, under common ownership, located on the Balboa Peninsula.
3. The subject properties are located within the Single-Unit Residential (R-1) Zoning District and the General Plan Land Use Element category is Single-Unit Residential Detached (RS-D).
4. The subject properties are located within the coastal zone and the Coastal Land Use Plan category is Single Unit Residential Detached (RSD-D).
5. The design of the development will not conflict with any easements acquired by the public at large for access through or use of property within the proposed development.
6. Public improvements will be required of the Applicant per the Municipal Code and the Subdivision Map Act.
7. A public hearing was held on April 11, 2013, in the Corona del Mar Conference Room (Bay E-1st Floor), 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

**SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.**

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 5 (Minor Alterations in Land Use Limitations).
2. Class 5 consists of minor alterations in land use limitations in areas with an average slope of less than 20 percent, which do not result in any changes in land use or density.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 19.68.030 and 19.08.030 of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

#### Finding:

*A. Approval of the merger will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City, and further that the proposed lot merger is consistent with the legislative intent of this title.*

#### Facts in Support of Finding:

- A-1. The lot merger to combine two existing legal lots by removing the interior lot line between them will not result in the creation of additional parcels.
- A-2. The project is in an area with an average slope of less than 20 percent.
- A-3. Redevelopment of the property will require vehicular access from the alley.
- A-4. The lot merger is consistent with the purpose and intent of Title 19 (Subdivisions). The proposed merger will protect land owners and surrounding residents, and will preserve the public health, safety, and general welfare of the City
- A-5. The future development on the proposed parcel will comply with the Zoning Code development standards.

#### Finding:

*B. The lots to be merged are under common fee ownership at the time of the merger.*

#### Facts in Support of Finding:

- B-1. The two lots to be merged are under common fee ownership.

#### Finding:

*C. The lots as merged will be consistent or will be more closely compatible with the applicable zoning regulations and will be consistent with other regulations relating to the subject property including, but not limited to, the General Plan and any applicable Coastal Plan or Specific Plan.*



Facts in Support of Finding:

- C-1. The merged lot will retain the Single-Unit Residential zoning designation, consistent with the surrounding area. The R-1 Zoning District is intended to provide for areas appropriate for a detached single-family residential dwelling units located on a single lot.
- C-2. The existing single-unit dwellings located on the subject lots will be demolished, and the proposed merged lot would be redeveloped with a new single-unit dwelling. Section 20.18.030 of the Zoning Code establishes minimum lot area and width requirements. Each of the two existing lots are 1,875 square feet in area and 25 feet in width, which are less than the 6,000 square-foot minimum lot area and 60-foot minimum lot width requirements of the Zoning Code. The proposed merger of the lots would create one 3,750 square-foot, 50-foot-wide parcel that will be more consistent with the minimum lot standards of the Zoning Code.
- C-3. The Land Use Element of the General Plan designates the subject site as Single-Unit Residential Detached (RS-D), which applies to a range of single family residential dwelling units. The Coastal Land Use Plan designates this site as Single-Unit Residential Detached (RSD-D) which provides for density ranges from 20.0-29.9 dwelling units per acre. The land use will remain the same and the merger is consistent with the land use designations of the General Plan and Coastal Land Use Plan.
- C-4. Future redevelopment of the property will provide vehicular access from the alley, consistent with General Plan and Coastal Land Use Plan policies.

Finding:

*D. Neither the lots as merged nor adjoining parcels will be deprived of legal access as a result of the merger.*

Facts in Support of Finding:

- D-1. The lots as merged will not be deprived of legal access as the merged lot will abut a street, an alley, and a beach front walk.
- D-2. No adjoining parcels will be deprived of legal access as a result of the merger. The public alleys were developed to provide vehicular access for the properties located in the area. Vehicular access to and from the subject site and adjacent properties would remain via the public alleys.

Finding:

*E. The lots as merged will be consistent with the surrounding pattern of development and will not create an excessively large lot that is not compatible with the surrounding development.*

Facts in Support of Finding:

- E-1. The standard lot width of existing lots in the area is 25 feet with lots ranging in size between size 1,875 square feet and 2,375 square feet. The lots as merged will result in a 3,750 square-foot parcel that is larger than the standard lot size in the area, but smaller than the minimum 6,000 square-foot lot size and 50-foot lot width requirement of the Zoning Code. A single-unit dwelling located one block northwest (2706 West Ocean Front) is also located on a similar 3,750 square-foot parcel. Therefore, the lots as merged will not create an excessively large lot that is not compatible with the surrounding development.
- E-2. Development within the R-1 Zoning District can have a maximum floor area 2.0 times the buildable area of the lot. The proposed parcel will not be developed beyond this maximum development limit and will be developed consistent with the surrounding development.

Finding:

*F. The proposed division of land complies with requirements as to area, improvement and design, flood water drainage control, appropriate improved public roads and property access, sanitary disposal facilities, water supply availability, environmental protection, and other applicable requirements of this title, the Zoning Code, the General Plan, and any applicable Coastal Plan or Specific Plan.*

Facts in Support of Finding:

- F-1. Future improvements on the site will be required to comply with the development standards of the Municipal Code, General Plan, and Coastal Land Use Plan.
- F-2. The proposed lot merger combines the properties into a single parcel of land and does not result in the elimination of more than one lot.
- F-3. Approval of the proposed lot merger would remove the existing interior lot line, and allow the property to be used as a single site. The proposed lot would comply with all design standards and improvements required for new subdivisions by Title 19, General Plan, and Coastal Land Use Plan.

SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

- 1. The Zoning Administrator of the City of Newport Beach hereby approves Lot Merger No. LM2013-001, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.

2. This action shall become final and effective ten days after the adoption of this Resolution unless within such time an appeal is filed with the Director of Community Development in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

**PASSED, APPROVED, AND ADOPTED THIS 11<sup>th</sup> DAY OF APRIL, 2013.**

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Brenda Wisneski, AICP, Zoning Administrator

**EXHIBIT "A"**

**CONDITIONS OF APPROVAL**

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the property owner or the leasing agent.
3. Prior to recordation of the lot merger, the two existing dwelling units shall be demolished.
4. Prior to the issuance of any building permit for construction to cross the existing interior lot line between the two lots proposed to be merged, recordation of the lot merger documents with the County Recorder shall be required.
5. All improvements shall be constructed as required by Ordinance and the Public Works Department.
6. The existing broken and/or otherwise damaged concrete sidewalk panels, alley approach, curb and gutter along the 26<sup>th</sup> Street frontage shall be reconstructed.
7. The existing driveway approach along 26th Street shall be replaced with a new driveway plug per City Standards STD-165-L. Per Council Policy L-2, future development shall obtain garage access from the adjacent alley.
8. One of the two existing sewer laterals shall be abandoned at the property line.
9. One of the two existing water service/meters shall be abandoned at the main (corporation stop).
10. An encroachment permit is required for all work activities within the public right-of-way.
11. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.
12. All existing overhead utilities shall be undergrounded.
13. All existing private, non-standard improvements within the public right-of-way and/or extensions of private, non-standard improvements into the public right-of-way fronting the development site shall be removed.
14. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.

15. All on-site drainage shall comply with the latest City Water Quality requirements.
16. Lot Merger No. LM2013-001 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
17. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Moss Lot Merger including, but not limited to, the Lot Merger No. LM2013-001. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.



## **Attachment No. ZA 2**

Vicinity Map





# VICINITY MAP



Lot Merger No. LM2013-001  
PA2013-038

**2600 and 2602 West Ocean Front**



# **Attachment No. ZA 3**

Lot Merger Exhibits



**EXHIBIT "A"**  
**CITY OF NEWPORT BEACH**  
**LOT MERGER NO. LM 2012-\_\_\_\_\_**

**(LEGAL DESCRIPTION)**

OWNERS	EXISTING PARCEL NUMBERS	PROPOSED PARCELS REFERENCE NUMBERS
SHIRISH J. SHAH AND SANDHYA S. SHAH, HUSBAND AND WIFE AS COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP.	047-093-17 LOT 1; 2600	PARCEL 1
GLENN LESLIE MOSS AND JERI COLLEEN MOSS, TRUSTEES OF THE GLENN LESLIE MOSS AND JERI COLLEEN MOSS TRUST.	047-093-16 LOT 2; 2602	PARCEL 1

**EXISTING LEGAL DESCRIPTION:**

REAL PROPERTY SITUATED IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

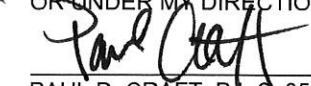
LOT 1 AND 2 OF TRACT 512, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 03, PAGE 26, OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

**PROPOSED LEGAL DESCRIPTION:**

**PARCEL 1:**

SEE EXHIBITS 'B' & 'C' ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

THIS DESCRIPTION HAS BEEN PREPARED BY ME  
OR UNDER MY DIRECTION

  
\_\_\_\_\_  
PAUL D. CRAFT, P.L.S. 8516,  
LICENSE RENEWAL DATE: 12/31/14



PA2012-038 for LM2013-001  
2600 & 2602 W. Ocean Front  
Apex Land Surveying, Inc. – Paul D. Craft, PLS

SHEET 1 OF 1

# EXHIBIT "B"

## CITY OF NEWPORT BEACH

### LOT MERGER NO. LM 2012-\_\_\_\_\_

(MAP)

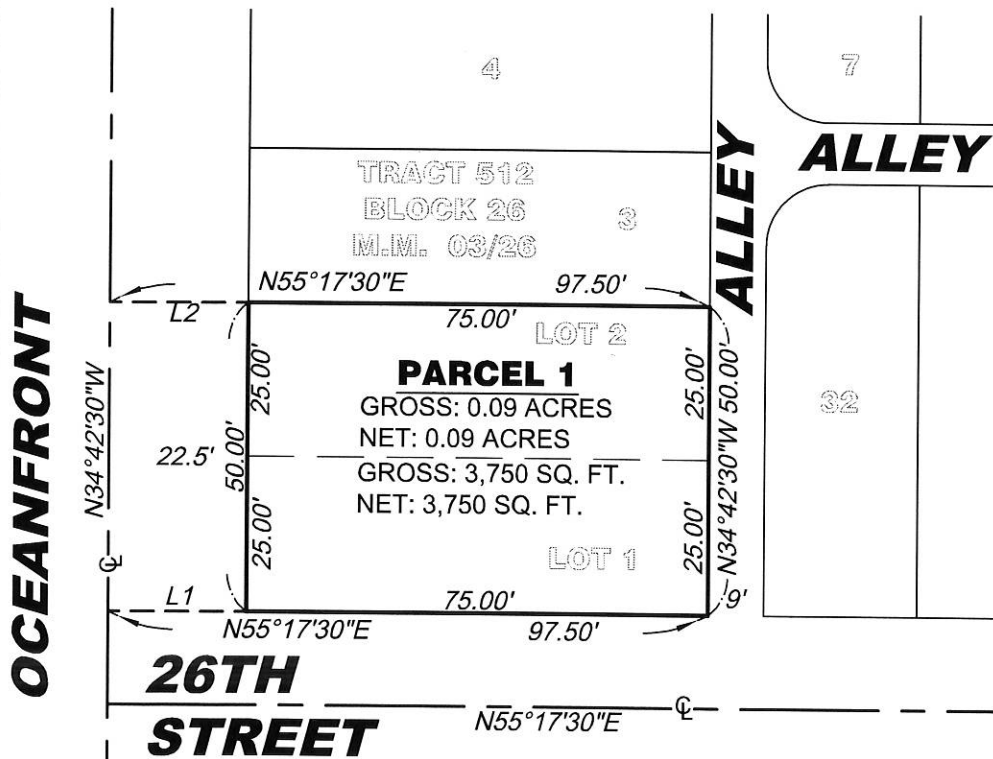
OWNERS	EXISTING PARCEL NUMBERS	PROPOSED PARCELS REFERENCE NUMBERS
SHIRISH J. SHAH AND SANDHYA S. SHAH, HUSBAND AND WIFE AS COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP.	047-093-17 LOT 1; 2600	PARCEL 1
GLENN LESLIE MOSS AND JERI COLLEEN MOSS, TRUSTEES OF THE GLENN LESLIE MOSS AND JERI COLLEEN MOSS TRUST.	047-093-16 LOT 2; 2602	PARCEL 1

#### LINE LEGEND

- PROPOSED PARCEL LINE
- EXISTING BOUNDARY LINE TO REMAIN
- EXISTING BOUNDARY LINE TO BE DELETED

THIS PLAN WAS PREPARED USING RECORD DATA PER TRACT 512,  
COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED  
IN BOOK 03, PAGE 26 OF MISCELLANEOUS MAPS.

LINE TABLE		
LINE	BEARING	LENGTH
L1	N55°17'30"W	22.50'
L2	N55°17'30"W	22.50'



SCALE: 1"=30'



THIS MAP HAS BEEN PREPARED BY ME  
OR UNDER MY DIRECTION

*Paul D. Craft*

PAUL D. CRAFT, R.L.S. 8516,  
LICENSE RENEWAL DATE: 12/31/14

SHEET 1 OF 1

# EXHIBIT "C"

## CITY OF NEWPORT BEACH

### LOT MERGER NO. LM 2012-\_\_\_\_\_

(SITE PLAN)

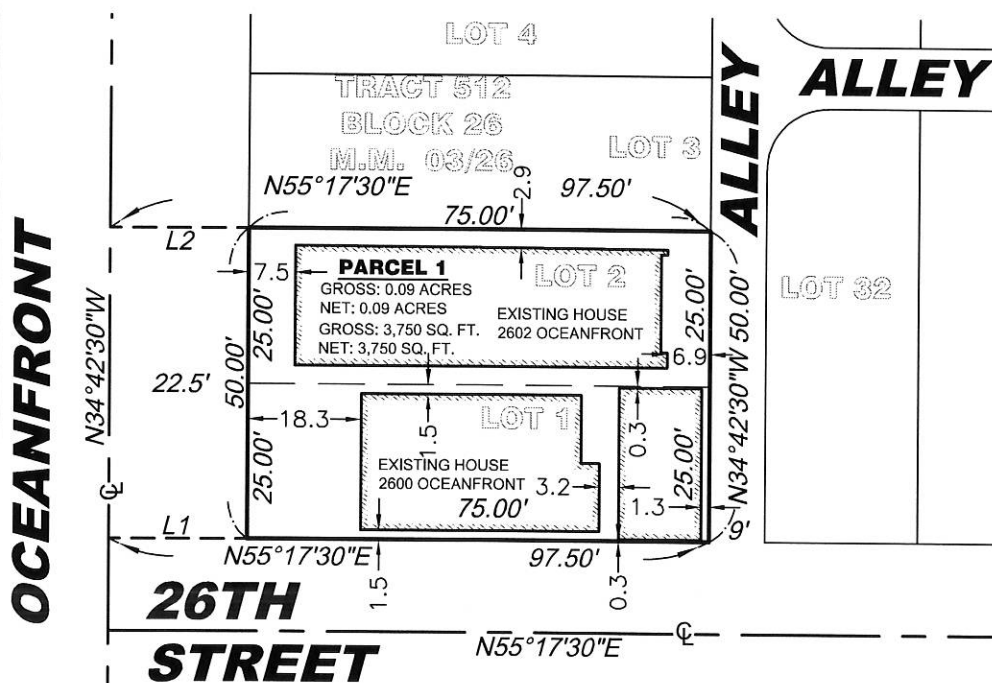
OWNERS	EXISTING PARCEL NUMBERS	PROPOSED PARCELS REFERENCE NUMBERS
SHIRISH J. SHAH AND SANDHYA S. SHAH, HUSBAND AND WIFE AS COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP.	047-093-17 LOT 1; 2600	PARCEL 1
GLENN LESLIE MOSS AND JERI COLLEEN MOSS, TRUSTEES OF THE GLENN LESLIE MOSS AND JERI COLLEEN MOSS TRUST.	047-093-16 LOT 2; 2602	PARCEL 1

#### LINE LEGEND

- PROPOSED PARCEL LINE
- EXISTING BOUNDARY LINE TO REMAIN
- EXISTING BOUNDARY LINE TO BE DELETED

LINE TABLE		
LINE	BEARING	LENGTH
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L2	N55°17'30"W	22.50'

THIS PLAN WAS PREPARED USING RECORD DATA PER TRACT 512,  
COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED  
IN BOOK 03, PAGE 26 OF MISCELLANEOUS MAPS.



THIS MAP HAS BEEN PREPARED BY  
ME OR UNDER MY DIRECTION

PAUL D. CRAFT, P.L.S. 8516,  
LICENSE RENEWAL DATE: 12/31/14

SHEET 1 OF 1



**Item 4. Moss Lot Merger (PA2013-038)**

In the draft Resolution of Approval:

- Section 2.1: does not explain what “Class 5” is. Per page 3 of the staff report, under “*Environmental Review*,” it is part of the CEQA Implementing Guidelines, not CEQA itself.
- Section 2.2: the findings to qualify for Class 5 clearly *can’t* be made. Contrary to what the resolution says, the proposal clearly involves a change in density (dwelling units per acre).
- Fact A-3: The draft sentence makes little sense to me. Is it trying to say the merger will be conditioned to require permanent access from the alley? Or that it will be conditioned to require construction access solely via the alley?
  - I can find nothing in the conditions of approval related to alley access during or after construction.
- Fact B-1: The documents attached on handwritten pages 21-23 seem to contradict the statement that the lots are under common ownership. They indicate different owners for Lot 1 and Lot 2.
- Fact E-1: Compatibility with surrounding development is a judgment call, and I don’t find a similar lot a block away convincing evidence of compatibility.
- Facts F-1 and F-3: In the absence of a certified Coastal Plan, the City is not authorized to make findings of consistency with the Coastal Act, and a Coastal Development Permit is required to establish that. The Executive Director of the Coastal Commission may well deem this project eligible for a waiver; but he might also find it raises substantial issues, including diminishing available housing stock in the Coastal Zone. It may also raise General Plan issues in that respect (particularly with regard to the Housing Element).
  - I think Section F should include a statement that consistency with the Coastal Act will be guaranteed by issuance of a CDP, supported by a condition requiring approval of the CDP before the merger can be completed.
- Condition 4: It is unclear what “lot merger documents” the Zoning Administrator is ordering to be recorded.
  - The staff report (page 1) says the applicant is asking to “waive the parcel map requirement,” but I can find nothing further about that (hampered, perhaps, because the report posted on-line is, for the most part, not searchable). I particular I am unable to find a waiver of anything in the resolution or the conditions of approval (and Condition 1 implies the waiver would have to be explicit to be effective).
  - The “Lot Merger Exhibits” on handwritten pages 21-23 look rather like a parcel map, but their relation to the resolution and the conditions of approval is unclear to me.
    - If these are a parcel map, shouldn’t they mention the date on which they were prepared or refer to? All I can find is dates related to the surveyor’s license.
- Condition 12: Are there existing overhead utilities? What, specifically does the Zoning Administrator want undergrounded?